

TO MICHIGAN HOUSE JUDICIARY COMMITTEE
10-13-15 HEARING
CHAIR KLINT KESTO

OPPOSING HB 4793- TO MAKE MENTAL COMMITMENT DOCUMENTS PRIVATE

HB 4793 is inimical to democratic and constitutional values, and will disserve the goal of protecting the interests and rights of citizens. The proposal to keep from the public the primary evidentiary documents used to commit persons can only impede the legislature's and the public's responsibility to understand, evaluate and improve the functioning of the civil commitment process. The evidence upon which persons are subjected to psychiatric commitments is in need of greater scrutiny, transparency and accountability. There is great concern in the scholarly community that psychiatric science is ill-equipped to predict dangerousness, to predict the future course of mental illnesses or even to provide helpful treatments. Psychiatric commitments are historically notorious for being sham/kangaroo court proceedings riddled with fraud, abuse and numerous rights violations. Constitutional violations continue to be rampant under the current MH Code. What really is needed is greater public scrutiny of these documents so that appropriate reforms are made and constitutional liberty respected in a long neglected corner of our judicial process.

The US Supreme Court has established that public access to judicial proceedings is so important that the 1st Amendment requires that courts be kept open to the public except in rare cases where a great compelling interest outweighs the public's right to know and discuss judicial matters. The Court is clear that the people's right to have informed discussion on the judicial process and on judicial proceedings is so important that the 1st and 14th Amendments require open access. Note, *RICHMOND NEWSPAPERS V. VIRGINIA*, 448 US 555, (Openness of trials serves to increase fairness for all, and discourages perjury, misconduct, and decisions based upon bias or partiality.) *GLOBE NEWSPAPERS V. SUPERIOR COURT*, 457 US 596, (Public scrutiny enhances the quality and safeguards the integrity of the fact-finding process...Public access permits the public to participate in and serve as check upon the judicial process.) *NBC V. SUPERIOR COURT*, 20 CAL. 4th 1178, (1st Amendment access to court applies equally to civil proceedings, and no court has held otherwise.)

Law-makers should oppose HB 4793 and recall the famous Brandeis OLMSTEAD dissent which helped found the right to privacy, "the right to be let alone"—"The right most valued by civilized men" (*STANLEY V. GEORGIA*, 394 US 557). "The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding."

Thank you. Sincerely,



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